

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Judy Paul, Councilmember

PREPARED BY: Maria Mackie

SUBJECT: Resolution

AFFECTED DISTRICT: N/A

TITLE OF AGENDA ITEM:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CONDEMNING THE ACTIONS OF THE BROWARD COUNTY PROPERTY APPRAISER IN CONTINUING TO THREATEN THE PRESERVATION OF THE AGRICULTURAL LANDS WITHIN THE TOWN OF DAVIE THROUGH HIS REPEATED LITIGATION AGAINST THE DECISIONS OF THE BROWARD COUNTY VALUE ADJUSTMENT BOARD AND STRONGLY RECOMMENDS THAT THE FLORIDA DEPARTMENT OF REVENUE RECONSIDER ITS DECISION GRANTING PERMISSION TO LITIGATE AND URGES THE PROPERTY APPRAISER OF BROWARD COUNTY TO CEASE AND DESIST IN PROCEEDING WITH SAID LITIGATION.

REPORT IN BRIEF:

At the March 24, 2003 Council Meeting, Councilmember Paul requested that the Council agendize a very strong resolution in opposition to the actions of the Broward County Property Appraiser's Office.

PREVIOUS ACTIONS: N/A

CONCURRENCES: N/A

FISCAL IMPACT: N/A

RECOMMENDATION(S): Motion to approve this resolution

Attachment(s): Resolution

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CONDEMNING THE ACTIONS OF THE BROWARD COUNTY PROPERTY APPRAISER IN CONTINUING TO THREATEN THE PRESERVATION OF THE AGRICULTURAL LANDS WITHIN THE TOWN OF DAVIE; THROUGH HIS REPEATED LITIGATION AGAINST THE DECISIONS OF THE BROWARD COUNTY VALUE ADJUSTMENT BOARD AND STRONGLY RECOMMENDS THAT THE FLORIDA DEPARTMENT OF REVENUE RECONSIDER ITS DECISION GRANTING PERMISSION TO LITIGATE AND URGES THE PROPERTY APPRAISER OF BROWARD COUNTY TO CEASE AND DESIST IN PROCEEDING WITH SAID LITIGATION.

WHEREAS, on March 13, 2001 the people of the Town of Davie passed a Charter Amendment by nearly 90% of the voters, mandating that the Town Council shall adopt legislation to ensure the preservation of the rural and equestrian areas within the Town; and

WHEREAS, the purpose of Section 193.461, of the Florida Statutes, providing preferential assessments for property taxes to land used primarily for bona fide commercial agricultural use, is to preserve agricultural land from development; and

WHEREAS, in January, 2003 the Third District Court of Appeals ruled that horse boarding and training is an agricultural use pursuant to Section 193.461 of the Florida Statutes; and

WHEREAS, in 2002, the Florida Legislature amended Section 193.461, of the Florida Statutes, providing that, as of January 1, 2003, land granted the agricultural classification under that Statute, by a property appraiser, value adjustment board or court, could not be denied agricultural classification in subsequent years unless that agricultural use was abandoned; and

WHEREAS, in 2003, the Property Appraiser of Broward County has not abided by the intent of the above amendment and, instead of sending the new renewal cards for agricultural classification that were promulgated by the Florida Department of Revenue pursuant to said amendment, has sent initial application forms for agricultural classification, together with misleading and out of date copies of the 1995 Statute, Section 193.461, f.s. to those property owners granted agricultural classification in 2002 by the Broward County Value Adjustment Board; and

WHEREAS, the Property Appraiser of Broward County has annually denied agricultural classification to land in the Town granted the same by the Broward County Value Adjustment Board and the 17th Judicial Circuit Court of Broward County on the basis that the primary use of the land was commercial horse boarding and training; and

WHEREAS, the primary use of much of the undeveloped agricultural land in the rural and equestrian areas of the Town, which the Town Council is committed to preserving, is that of horse boarding and training farms; and

WHEREAS, the Property Appraiser of Broward County sought and gained permission from the Florida Department of Revenue under section 194.036, of the Florida Statutes, to file

suit against the Broward County Value Adjustment Board for the year 1998, challenging the Board's decisions in granting agricultural classification for horse boarding and training farms, and did so at the taxpayers expense; and

WHEREAS, in March 2003, the Fourth District Court of Appeal ruled against the Broward County Property Appraiser and concurred with the Third District Court that horse boarding and training was an agricultural use pursuant to agricultural classification under Section 193.461, of the Florida Statutes; and

WHEREAS, the Property Appraiser of Broward County sought and gained permission from the Florida Department of Revenue under section 194.036, of the Florida Statutes, to file suit against the Broward County Value Adjustment Board again, for the years 2001 and 2002, challenging the Board's decisions in granting agricultural classification and naming horse boarding and training farms within the Town in the litigation, which may result in the removal of the agricultural classification to those properties for the years in dispute.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF DAVIE:

SECTION 1. The Town Council condemns the actions of the Broward County Property Appraiser in continuing to threaten the preservation of the agricultural lands within the Town through his repeated litigation against the decisions of the Broward County Value Adjustment Board.

SECTION 2. The Town Council strongly recommends that the Florida Department of Revenue reconsider its decision granting permission to litigate and urges the Property Appraiser of Broward County to cease and desist in proceeding with said litigation.

SECTION 3. Upon adoption, this resolution shall be sent to the Broward County Commission, Broward County Property Appraiser, Broward County Value Adjustment Board and the Florida Department of Revenue.

SECTION 4. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2003.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003